EXHIBIT 4

1   UNITED STATES DISTRICT COURT

2   FOR THE EASTERN DISTRICT OF TEXAS

3   MARSHALL DIVISION

4   _____
     VIRTAMOVE, CORP.,   )
5   Plaintiff,   ) Case No.:
     vs.   ) 2:24-CV-00093-JRG-RSP
6   HEWLETT PACKARD   ) (Lead Case)
     ENTERPRISE COMPANY,   )
7   Defendants.   )
     _____)
8   VIRTAMOVE, CORP.,   )
               Plaintiff,   ) Case No.:
9   vs.   ) 2:24-CV-00064-JRG-RSP
     INTERNATIONAL BUSINESS   ) (Member Case)
10   MACHINE CORP.,   )
               Defendants.   )
11   _____)

12

13   HIGHLY CONFIDENTIAL

14   DEPOSITION OF DR. STEPHEN B. WICKER

15   (Volume 2)

16   FRIDAY, JULY 18, 2025

17   REMOTE VIDEO TELECONFERENCE

18   6:37 a.m. PDT

19   to

20   1:24 p.m. PDT

21

22

23   Stenographically Reported by:
     Burgundy B. Ryan, RPR,
24   CSR No. 11373
     Job No. 592920
25   Pages 102-230

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1	A. No. Again, I can't name a specific person.	13:13:16
2	Q. Are you aware of -- strike that.	13:13:30
3	Are you able to name any individual at IBM	13:13:36
4	that told VirtaMove or AppZero about any IBM patent?	13:13:39
5	A. No. Again, I can't name a specific	13:13:46
6	individual. But, again, I'll reference our earlier	13:13:49
7	discussion about groups working together and	13:13:51
8	becoming aware of each other's intellectual	13:13:54
9	property.	13:13:57
10	Q. Okay. And it's your opinion that under	13:13:57
11	your own theory, IBM -- strike that.	13:14:01
12	It's your opinion that under your own	13:14:08
13	theory, VirtaMove would not have been aware of any	13:14:10
14	specific patents solely based off of working	13:14:15
15	together with IBM; correct?	13:14:19
16	MR. GREMILLION: Objection. Form.	13:14:22
17	THE WITNESS: No. I don't agree with that.	13:14:27
18	By MR. MILKEY:	13:14:34
19	Q. Is it your opinion that VirtaMove would	13:14:34
20	have been aware of the asserted IBM patents solely	13:14:37
21	based off of working together with IBM?	13:14:40
22	A. Well, they certainly could have. It is a	13:14:43
23	common practice as we've discussed.	13:14:46
24	Q. You don't offer any opinion that VirtaMove	13:14:55
25	actually was aware of the asserted IBM patents based	13:14:57

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1	off of VirtaMove's work with IBM; correct?	13:15:01
2	A. That's correct. I can't say that	13:15:08
3	definitively.	13:15:09
4	MR. MILKEY: All right. I will pass the	13:15:48
5	witness.	13:15:49
6	MR. GREMILLION: Thank you.	13:15:50
7	EXAMINATION	13:15:51
8	By MR. GREMILLION:	13:15:51
9	Q. Dr. Wicker, I just have a couple of	13:15:51
10	questions for you.	13:15:53
11	Yesterday, do you recall counsel asked you	13:15:56
12	about your infringement analysis in this case?	13:15:57
13	A. Yes.	13:16:01
14	Q. And do you recall counsel specifically	13:16:04
15	asked you about the V-Migrate and V-Maestro	13:16:07
16	products?	13:16:11
17	A. That's correct. Yes, he did.	13:16:12
18	Q. Can you please explain what source code	13:16:16
19	analysis you performed regarding the V-Migrate	13:16:19
20	product?	13:16:22
21	A. Certainly.	13:16:23
22	MR. MILKEY: Objection to form.	13:16:24
23	THE WITNESS: What I did was I compared	13:16:25
24	the -- the V-Migrate software to the OIM patents.	13:16:27
25	It went limitation by limitation and pointed out	13:16:34

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#	Text	Time
1	where in the software the individual limitations	13:16:36
2	were implicated.	13:16:40
3	By MR. GREMILLION:	13:16:44
4	Q. And that V-Migrate source code analysis was	13:16:44
5	for each limitation of the OIM patents?	13:16:47
6	A. Exactly. Yes.	13:16:51
7	MR. MILKEY: Objection. Leading.	13:16:53
8	By MR. GREMILLION:	13:17:02
9	Q. For your analysis of the OIM patents, did	13:17:02
10	you analyze V-Maestro source code?	13:17:07
11	MR. MILKEY: Objection to form.	13:17:10
12	THE WITNESS: Yes, I did.	13:17:11
13	By MR. GREMILLION:	13:17:12
14	Q. Can you explain what you did there?	13:17:12
15	MR. MILKEY: Objection. Form.	13:17:14
16	THE WITNESS: Yeah. I was focused on	13:17:15
17	the -- the user interface. And I did comparisons of	13:17:18
18	that software to the fourth patent. Not the OIMs	13:17:22
19	but the -- the other patent.	13:17:25
20	By MR. GREMILLION:	13:17:27
21	Q. Which patent is that?	13:17:27
22	A. I'm sorry. There's been too many patent	13:17:30
23	numbers. The fourth patent, the non-OIM patent.	13:17:33
24	Q. Are you referring to the '858 patent?	13:17:37
25	A. Yes, I am.	13:17:39

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1	Q. So for the '858 patent you analyzed	13:17:40
2	V-Maestro source code; is that correct?	13:17:44
3	A. That's correct.	13:17:46
4	MR. MILKEY: Objection. Leading. Form.	13:17:47
5	By MR. GREMILLION:	13:17:51
6	Q. Based on your understanding of V-Migrate	13:17:51
7	and V-Maestro, what are the differences between the	13:17:53
8	two products?	13:17:56
9	A. Okay. So V-Maestro includes the	13:17:58
10	functionality of V-Migrate. But V-Migrate is a -- a	13:18:01
11	separate migration process.	13:18:05
12	Q. And what is V-Maestro used for?	13:18:09
13	A. It's actually used -- it's a -- a user	13:18:11
14	interface product.	13:18:15
15	Q. To switch topics a little bit. Can you	13:18:20
16	open Exhibit 11 to paragraph 1172 and let me know	13:18:23
17	when you're there.	13:18:31
18	A. It's right there. Yes.	13:18:33
19	Q. Okay. And do you recall that counsel	13:18:34
20	earlier today asked you questions about free and	13:18:36
21	malloc?	13:18:39
22	A. Yes. I do recall that.	13:18:40
23	Q. He asked you if you believed free and	13:18:43
24	malloc were functional replicas of kfree and	13:18:45
25	kmalloc?	13:18:49

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1	A. That's correct.	13:18:51
2	Q. Correct me if I'm wrong, but I believe you	13:18:54
3	stated that under VirtaMove's contentions they were	13:18:57
4	functional replicas.	13:19:02
5	Is that -- is that right?	13:19:04
6	A. Yes. Mr. Koskinen did say that they were	13:19:04
7	replicas.	13:19:10
8	Q. And what did you mean by "under VirtaMove's	13:19:11
9	contentions"?	13:19:14
10	A. Well, that's -- this is what Mr. Koskinen	13:19:15
11	was saying in his report. I don't think it's	13:19:19
12	correct as I've noted.	13:19:23
13	Q. Do -- do you believe that free and malloc	13:19:24
14	are functional replicas of kfree and kmalloc?	13:19:26
15	A. No. No, they're not. The kfree and	13:19:31
16	kmalloc, that only operates in kernel mode, whereas	13:19:35
17	the others are library functions to be used in	13:19:37
18	application mode.	13:19:42
19	Q. Now, what about if you consider, in	13:19:45
20	VirtaMove's claim construction, would you consider	13:19:47
21	free and malloc to be functional replicas of kfree	13:19:51
22	and kmalloc?	13:19:54
23	A. I think even under VirtaMove's construction	13:19:57
24	they would not be functional replicas.	13:20:01
25	MR. GREMILLION: Thank you. No further	13:20:06

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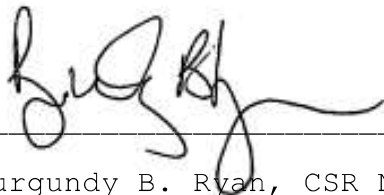
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 1              CERTIFICATE OF STENOGRAPHIC REPORTER

 2

 3         I, BURGUNDY B. RYAN, a Certified Shorthand

 4    Reporter, hereby certify that the witness in the

 5    foregoing deposition,

 6              DR. STEPHEN B. WICKER,

 7    was by me duly sworn to tell the truth, the whole

 8    truth, and nothing but the truth, in the

 9    within-entitled cause; that said deposition was

10    taken at the time and place therein named; that the

11    testimony of said witness was stenographically

12    reported by me, a disinterested person, and was

13    thereafter transcribed into typewriting.

14         I further certify that I am not of counsel

15    or attorney for either or any of the parties to said

16    deposition, nor in any way interested in the outcome

17    of the cause named in said caption.

18

19         DATED:  Sunday, July 20, 2025.

20

21

22    _____

23    Burgundy B. Ryan, CSR No. 11373, RPR

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